

United States District Court
Northern District of California

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

USA,

Plaintiff,

v.

ELIZABETH A. HOLMES,

Defendant.

Case No. [5:18-cr-00258-EJD-1](#)

**ORDER DEFERRING RULING ON
DEFENDANT’S MOTION TO EXCLUDE
CERTAIN TESTIMONY OF ERIKA
CHEUNG, DANIEL EDLIN, AND SO
HAN SPIVEY (A.K.A. DANISE YAM)**

Re: Dkt. No. 1000

Defendant Elizabeth Holmes (“Holmes”) has moved to exclude certain testimony of Erika Cheung, Daniel Edlin, and So Han Spivey (a.k.a. Danise Yan) pursuant to Rules 401–404, 602, 702 and 801 of the Federal Rules of Evidence, Rule 16 of the Federal Rules of Criminal Procedure, Criminal Local Rule 16-1(c)(3), and this Court’s Order re: Motions in Limine, Dkt. 798. *See* Ms. Holmes’s Mot. to Exclude Testimony of Erika Cheung, Daniel Edlin, and So Han Spivey (a.k.a. Danise Yam), Dkt. No. 1000. The Court has reviewed Holmes’s motion and her arguments for why certain testimony should be excluded, as well as the Government’s opposition to the motion. *See* U.S. Opp’n to Def.’s Mot. to Exclude Testimony of Trial Week of Sept. 6, 2021 Witnesses, Dkt. No. 1004.

The Court finds that it would be premature to make a ruling on Holmes’s evidentiary challenges to certain testimony at this time without the benefit of hearing the questions posed by the Government or consideration of any potential foundation testimony elicited during trial.

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Further, the Court does not know for certain what testimony the Government intends to elicit during trial. As such, the Court **DEFERS** ruling on Holmes’s evidentiary challenges until and unless the Government seeks to elicit such testimony. At which point, Holmes’s counsel will have the opportunity to object before potentially inadmissible evidence is elicited or to ask the Court to strike objectionable testimony if an objection is sustained.

IT IS SO ORDERED.

Dated: September 7, 2021



EDWARD J. DAVILA
United States District Judge

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